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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,430	12/28/2000	Nicholas Sauriol	56130.000066	5692

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EXAMINER

PAN, YUWEN

ART UNIT	PAPER NUMBER
2682	4

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/749,430	SAURIOL ET AL. <i>[Signature]</i>
	Examiner Yuwen Pan	Art Unit 2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 December 2000.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,4-7, 9, 10, 12-15, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Malackowski et al (US005752186A).

With respect to claims 1,2 and 9,10 Malackowski discloses a method and apparatus for broadcasting radio programming over a cellular transmission network (see column 1 and lines 5-15), comprising:

Providing radio programming in an appropriate format (see column 2 and lines 21-35);

Enabling the radio programming to be accessible over a processor based network and wherein the processor based network is connectable to a cellular transmission network; and transmitting the radio programming over the cellular transmission network and receiving radio programming (see figure 1 and column 4 and lines 7-47).

With respect to claims 4,5,12, and 13, Malackowski further discloses the cellular transmission network transmits signals over a plurality of channels and the step of transmitting the radio programming further comprising:

Transmitting advertising information in which is a format that is displayable as visual display over at least one of the plurality of channels (see column 1 and lines 26-36, column 2 and lines 11-16, column 6 and line 57-column 7 and line 32).

With respect to claims 6,7,14, and 15, Malackowski further discloses transmitting other information (see column 3 and lines 1-12) over at least one of the plurality of channel and in a format that is displayable as a visual display (see column 2 and lines 10-13).

With respect to claim 22, Malackowski discloses a receiver for receiving a radio programming signal broadcast over a cellular transmission network (see column 6 and lines 7-14), the receiver comprising:

An input for receiving the radio programming signal; an audio output for delivering an audible portion of the radio programming signal, and a display for displaying a visible portion of the radio programming signal (see column 2 and lines 5-34).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1,8,9,16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Yuan (US006496704B2).

With respect to claims 1,8 and 9,16, Yuan discloses a method and apparatus for broadcasting radio programming over a cellular transmission network (see column 4 and lines 15-42), comprising:

Providing radio programming in an appropriate format (see column 5 and lines 49-55);  
Enabling the radio programming to be accessible over a processor based network and wherein the processor based network is connectable to a cellular transmission network; and transmitting the radio programming over the cellular transmission network, and accessing radio station over the Internet (see figure 6 and column 6 and lines 7-57).

With respect to claim 17, Yuan discloses an access device for enabling radio programming to be accessible over a processor based network that access device (see column 6 and lines 15-23) comprising:

A converter for converting the radio programming to an appropriated format and a delivery module that deliver the radio programming to a cellular transmission network (see column 7 and lines 8-20).

With respect to claim 18, Yuan further discloses the processor based network in the Internet (see figure 6).

With respect to claim 19, Yuan further discloses an over-air radio broadcast receiver (see column 6 and lines 7-14).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 11,23,24,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malackowski et al (US005752186A).

With respect to claims 3, 11,23,24, Malackowski doesn't expressly teach receiving the radio programming with a decoder receiver. Commonly, most cellular device must have a decoder for decoding the receiving signal to higher-level signal for further converting. It would

have been obvious to one ordinary skill in the art at the time the invention was made to have a decode receiver to decode the receiving signal to higher-level signal for further converting.

With respect to claim 25, the examiner takes “Official Notice” that it notoriously well-known in the art to receiving additional cellular transmission network signals such as control signal between cells and terminal devices to optimize the channel usage.

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have this addition feature to optimize the channel usage.

6. Claims 20,21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuan (US006496704B2).

With respect to claim 20, the examiner takes “Official Notice” that is notoriously well-known in the art to have a signal compressor and an encoder, in order to transmit signal over air.

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a signal compressor and an encoder to transmit signal over and save bandwidth.

With respect to claim 21, the examiner takes “Official Notice” that it notoriously well-known in the art to receiving additional cellular transmission network signals such as control signal between cells and terminal devices to optimize the channel usage.

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have this addition feature to optimize the channel usage.

### *Conclusion*

Art Unit: 2682

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yuwen Pan whose telephone number is 703-305-7372. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

  
Yuwen Pan  
August 22, 2003

  
VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

8/25/03